

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

UNITED STATES OF AMERICA,) CASE NO. 4:15-CR-152-A
)
Government,)
) FORT WORTH, TEXAS
VERSUS)
) JANUARY 15, 2016
SHAWN TRAVIS CATHEY (08),)
)
Defendant.) 10:00 A.M.

VOLUME 1 OF 1
TRANSCRIPT OF SENTENCING
BEFORE THE HONORABLE JOHN McBRYDE
UNITED STATES DISTRICT COURT JUDGE

A P P E A R A N C E S :

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P R O C E E D I N G S

January 15, 2016 - 10:00 a.m.

THE COURT: Okay. I'm next calling for sentencing Number 4:15-CR-152-A. It's United States of America versus Shawn Travis Cathey.

And Mr. Smith's here for the government, and Mr. Biggs is here for the defendant.

I'll have the defendant state his full name for the record.

THE DEFENDANT: Shawn Travis Cathey, Your Honor.

THE COURT: You appeared before me on August 7, 2015, when you entered a plea of guilty to the offense charged by the one-count indictment in this case, and that's the offense of conspiracy to possess with intent to distribute a controlled substance, and, of course, we're here today for sentencing based on the conviction resulting from that plea.

Mr. Biggs, did you and your client receive in a timely manner the presentence report and the addendum to it?

MR. BIGGS: Yes, Your Honor.

THE COURT: And did the two of you read those items and then discuss them with each other?

MR. BIGGS: Yes, Your Honor.

THE COURT: Let's see. There were some objections to the presentence report. Let me look at those.

Mr. Biggs, you've seen the government's response to

1 those objections, the probation officer's response, and my
2 January 8 order expressing my tentative conclusion that they
3 are without merit and that your client's not eligible for a
4 reduction of acceptance of responsibility.

5 I received an order -- I mean a -- what you called a
6 Response to the Court's January 8 Order. It came in day
7 before yesterday, I think, where the defendant withdrew
8 objection number 1, so I'll consider that one withdrawn.

9 There's only one other objection. Does your client
10 persist in pursuing that objection?

11 *MR. BIGGS:* Your Honor, we have nothing to add. We
12 have no evidence. We don't --

13 *THE COURT:* Does your client want to pursue that
14 objection?

15 *MR. BIGGS:* Yes, Your Honor, at this time, yes.

16 *THE COURT:* Okay. And you're telling me you don't
17 have any evidence that you want to offer in support of it?

18 *MR. BIGGS:* No, Your Honor.

19 *THE COURT:* You're not telling me that? What are
20 you telling me?

21 *MR. BIGGS:* No. Yes, correct, I do not have any
22 evidence to present in support of that objection.

23 *THE COURT:* Okay. Okay. Well, let's look at that
24 objection.

25 Okay. It's an objection to paragraph 50 of the

1 presentence report.

2 *MR. BIGGS:* Your Honor, I believe it's paragraph 51.

3 *THE COURT:* Oh, it said -- the objection says
4 paragraph 50. You're saying it's actually 51?

5 *MR. BIGGS:* My apologies.

6 *THE COURT:* Okay. Well, the information in the
7 presentence report, which the probation officer says is based
8 on reliable sources, indicates that that's -- the facts you're
9 objecting to in paragraph 51 are true, so I find from a
10 preponderance of the evidence that those facts support the
11 statements made in paragraph 51 in the presentence report and
12 overrule that objection.

13 Okay. Does that take care of all the objections?
14 Did you have any objections to the addendum?

15 *MR. BIGGS:* No, Your Honor, and I'd like to just
16 make clear on the record that we don't contest any of the
17 facts that have been alleged. We've just contested whether
18 that arises to a -- whether that is enough sufficient to
19 trigger an enhancement for the maintaining a premises.

20 *THE COURT:* I think your concern is that the
21 objections might cause the Court to conclude that your
22 client's not entitled to acceptance of responsibility?

23 *MR. BIGGS:* Yes, Your Honor, that's correct.

24 *THE COURT:* Okay. Well, I'm not going to reach that
25 conclusion, though I'm tempted to, but I'm not.

1 MR. BIGGS: Okay. Thank you, Your Honor.

2 THE COURT: There being no further objections to the
3 presentence report, the Court adopts as the fact findings of
4 the Court the facts set forth in the presentence report as
5 modified or supplemented by the addendum and any facts I've
6 found from the bench. The Court adopts as the conclusions of
7 the Court the conclusions expressed in the presentence report
8 as modified or supplemented by the addendum and any
9 conclusions I've expressed from the bench.

10 The Court concludes that the offense level -- the
11 total offense level is 39; that the Criminal History Category
12 is VI; that the imprisonment range is 360 months to 480
13 months; and that the supervised release range is 4 to 5 years;
14 and that the fine range is \$25,000 to \$5 million; and that a
15 special assessment of \$100 is mandatory.

16 Okay. The government has filed a motion -- I
17 believe the government filed a motion for a downward
18 departure.

19 Does the government wish to offer any evidence in
20 support of that?

21 MR. SMITH: Yes, Your Honor.

22 THE COURT: Okay.

23 MR. SMITH: Government calls Agent Smith.

24 THE COURT: Raise your right hand to be sworn.

25 (Witness Smith sworn)

1 THE COURT: Okay. Come up and be seated.

2 THE WITNESS: Thank you, Your Honor.

3 THE COURT: You may proceed.

4 MR. SMITH: Thank you, Your Honor.

5 **CHRIS SMITH,**

6 having been first duly sworn, testified as follows:

7 **DIRECT EXAMINATION**

8 **BY MR. SMITH:**

9 Q. Good morning. Will you please state your name.

10 A. Chris Smith.

11 Q. And your current occupation?

12 A. I'm a Special Agent with the Bureau of Alcohol,
13 Tobacco, Firearms and Explosives.

14 Q. And you are one of the case agents on this case; is
15 that right?

16 A. I am.

17 Q. Can you tell us a little bit about Mr. Cathey's
18 cooperation with the government?

19 A. Yes, sir. I've encountered Mr. Cathey on two
20 separate occasions during this investigation, and both times
21 during those encounters Mr. Cathey was cooperative from the
22 beginning when we talked to him. He also provided information
23 for several defendants of the case and also potential
24 target -- or excuse me, defendants in the future.

25 Q. So Mr. -- or you were involved in interviews with

1 Mr. Cathey on several occasions; is that right?

2 A. Yes, sir.

3 Q. And that's from when -- from when he was arrested on
4 this case?

5 A. Yes, sir.

6 Q. Now, to detail some of the individuals that he
7 provided information on in the motion, and I'll just read
8 those names to you.

9 MR. SMITH: And for the Court, they are on the
10 second page of the motion.

11 Q (BY MR. SMITH) The defendant brought information on
12 Samuel Hebert, Joseph Sutton, Rachel Adams, Michael Colby,
13 Brian Harris, and Larry Hawkins?

14 A. Yes, sir.

15 Q. And those were -- those are all defendants in related
16 DEA cases; is that right?

17 A. Yes, sir, that is correct.

18 Q. And some of the information -- obviously, the
19 government was aware of these individuals' activities, but
20 Mr. Cathey provided information that was corroborative of that
21 information and helped in securing their respective pleas; is
22 that right?

23 A. Yes, sir, that's correct.

24 Q. Okay. And in addition to that, Mr. Cathey's
25 information is being used to hopefully further the

1 investigation and the indictments of approximately six future
2 targets; is that right?

3 A. Yes, sir, that is correct.

4 THE COURT: Are those the six people named, that he
5 just named?

6 THE WITNESS: No, sir, that's additional, additional
7 to those other people.

8 THE COURT: Who are they?

9 THE WITNESS: It's on the DEA side of the
10 investigation. It's still ongoing, Your Honor.

11 THE COURT: Nobody's been charged yet?

12 THE WITNESS: Not those six, Your Honor.

13 THE COURT: Okay. Well, what's the status of it?

14 THE WITNESS: There's still more information that
15 we're putting together in order to seek a complaint on those
16 individuals.

17 THE COURT: In other words, you're getting
18 information from somebody separate from Mr. Cathey?

19 THE WITNESS: Yes, sir. Mr. Cathey's information
20 and other individuals' information to corroborate the
21 information that Mr. Cathey has already given to us.

22 THE COURT: Okay. Go ahead.

23 MR. SMITH: That's all the questions I have, Your
24 Honor.

25 THE COURT: Do you have any questions of this

1 witness?

2 *MR. BIGGS:* Briefly, Your Honor.

3 *THE COURT:* Okay.

4 **CROSS-EXAMINATION**

5 **BY MR. BIGGS:**

6 *Q.* As the government has -- there are -- would it be
7 fair to say that the six future targets will be prosecuted,
8 it's just a matter of time?

9 *A.* Yes, sir, I believe so.

10 *Q.* And did Mr. Cathey introduce you to any of those
11 targets?

12 *A.* I'd have to look at several interviews in order to
13 know whether he introduced those people or other people
14 introduced those people, but he did provide information on
15 those individuals.

16 *Q.* His information was useful in their future
17 prosecution?

18 *A.* Yes, sir.

19 *MR. BIGGS:* No further questions, Your Honor.

20 *THE COURT:* You mentioned that he had provided
21 information on a Hebert, Sutton, Adams, Colby, Harris, and
22 Hawkins.

23 Did all of those people plead guilty? Am I correct?

24 *THE WITNESS:* Yes, sir, I believe they are all --
25 pled guilty, yes, sir.

1 *THE COURT:* And did the government have information
2 from other sources that would establish the guilt of those
3 people?

4 *THE WITNESS:* Yes, sir. It was corroborated with
5 Mr. Cathey's information, yes, sir.

6 *THE COURT:* Okay. In other words, the government
7 already had information, he simply gave information that was
8 consistent with what you already had?

9 *THE WITNESS:* Yes, sir.

10 *THE COURT:* Okay. You can step down.

11 *THE WITNESS:* Thank you, Your Honor.

12 *THE COURT:* Okay. I find that the defendant did
13 provide substantial assistance to the government in the
14 investigation and prosecution of the criminal activities of
15 others, and that he would be eligible for a sentence below the
16 bottom of the advisory guideline range. Of course, there are
17 a lot of other factors that enter into it, and so I'll hear
18 from Mr. Biggs on that subject.

19 Did you have any evidence you wanted to offer
20 Mr. Biggs on the subject of a sentence below the bottom of the
21 guideline range?

22 *MR. BIGGS:* Your Honor, I did have someone I wanted
23 to make a statement at the podium, if that's --

24 *THE COURT:* Well, that's fine. I'm trying to find
25 out if you had any evidence you wanted to offer.

1 MR. BIGGS: Not aside from that, no, Your Honor.

2 THE COURT: Okay. Do you want that person to make a
3 statement before you make your statement?

4 MR. BIGGS: Yes, Your Honor.

5 THE COURT: Okay. Why don't you call that person
6 forward.

7 MR. BIGGS: We'll call Elaine Cathey.

8 MS. ELAINE CATHEY: Your Honor, I'm Elaine Cathey,
9 Shawn's mother.

10 THE COURT: What city do you live in?

11 MS. ELAINE CATHEY: I live in Weatherford, Texas.

12 THE COURT: Okay. Go ahead and make whatever
13 statement you would like to make.

14 MS. ELAINE CATHEY: Okay. I just wanted to say that
15 Shawn is the youngest of five children, and he never gave me
16 any problems when he was growing up. He was very kind, and
17 he's always been a really kind person. He's never had any
18 kind of violent crimes or anything. His crime was just
19 getting involved in drugs, and he didn't do that until he was
20 older, and I just pray that you would have mercy on him.

21 THE COURT: Okay. Thank you.

22 MS. ELAINE CATHEY: Thank you.

23 THE COURT: Okay. You can make whatever statement
24 you want to make on behalf of your client at this time.

25 MR. BIGGS: Your Honor, additionally, I would just

1 like to point out there are several other family members here
2 on Mr. Cathey's behalf in the second row and the gentleman in
3 the third row in the middle.

4 Your Honor, as the Court has presumably received my
5 motion for downward variance that I submitted, I believe there
6 are facts that would justify a sentence below the guidelines,
7 separate and apart from the substantial assistance he
8 provided, and I believe he provided robust substantial
9 assistance.

10 The Fifth Circuit in the case of United States
11 versus Malone made clear that the Court, when deciding upon a
12 sentence, should depart based on substantial assistance, and
13 then from there, then consider whether the 3553(a) factors may
14 warrant a further deviation from the guidelines or may warrant
15 deviation from the guidelines since the 5K would be within the
16 guidelines framework.

17 So we would urge the Court to follow that approach,
18 and when the Court does, I would -- I believe that a sentence
19 well below the guidelines is appropriate.

20 Though that's the last step, I think when you're
21 just thinking about the case, though this happened later, had
22 Mr. Cathey not cooperated at all, I don't believe that the
23 sentence of 360 months would be fair at all, and that's if he
24 had not cooperated.

25 And the things I would point out are the things I

1 pointed out in my motion, which is that Mr. Cathey has no
2 violent criminal history whatsoever. He has a number of drug
3 offenses, and they all took place in a relatively short period
4 of time in his life. I'm talking about -- I wouldn't say
5 short, but certainly not over the course of his entire life,
6 basically age 34 to age 44.

7 After he got into using meth is sort of when this
8 downward spiral occurred, and you'll see that a number of -- I
9 mean, really all of his offenses are controlled -- are
10 substance abuse -- controlled-substance related, either
11 distributing or possessing.

12 There is a firearms offense as well, and there are
13 some alleged offenses pertaining to either evading arrest or
14 resisting arrest, but -- there's failure to identify, but
15 there's no violent crimes here.

16 And Mr. Cathey, while distributing narcotics is
17 certainly a harm, he also is -- he's suffering from that very
18 same harm himself, which is the great irony about this case.
19 When he's not using methamphetamine, he can be productive and
20 a useful member of society, and he's capable of doing it.

21 I would point out that he -- after he was released
22 from state custody most recently in 2013, he participated in
23 the Calvary Bible Institute and lived there and was doing
24 great, and the PSR even bears that out, that he was doing
25 really well, attendance, scholastically, et cetera, and then

1 he left to go home and that's when it started up again.

2 So, in the right structure, he can do well, and I
3 believe that that's what we have supervised release for is to
4 make sure that the structure -- he's put in a position where
5 he can succeed. I know he wants to.

6 I know he regrets it, and you can tell based on -- I
7 mean, the fact that right when he was brought to account, he's
8 immediately cooperative. He knew that he had done wrong. He
9 was doing his best to try to certainly help the government,
10 and obviously help himself as well, but he doesn't -- he
11 doesn't want to continue in this lifestyle.

12 He's gone to prison very few times. I mean, though
13 he has -- and I pointed this out in my motion. He has
14 basically nine criminal history points from a single trip to
15 prison, but, I mean, what we're talking about is 75 days in
16 2006; a 2-year imprisonment sentence in 2006; 2008, one year.
17 In 2010, he got a 15-year sentence and a 5-year sentence run
18 concurrently, and ended up doing probably about 3 years on
19 that, and that's it. That's all he's done. I mean,
20 that -- those are his trips.

21 So, any sentence the Court's considering in this
22 case are going to absolutely dwarf the longest sentence -- all
23 these sentences combined, and I just think that even not
24 considering the -- even not considering the cooperation, I
25 think if you ask most people, you know, a period of 6 months

1 or however long -- we're not contesting any period of time,
2 but the amount of time that he was back out distributing
3 drugs, is that worth 30 years.

4 I think that's a staggeringly long sentence for what
5 occurred here, and that's why I would encourage the Judge, the
6 Court, after it imposes its 5K departure to consider a further
7 variance from the guidelines based on those factors, and the
8 fact that we have alternatives to prison. We have supervised
9 release. He can be on supervised release for his entire life,
10 and the Court could ensure that the public is protected.

11 And, Your Honor, one last thing is I just want to
12 make sure that the Court did receive several letters on
13 Mr. Cathey's behalf.

14 *THE COURT:* I've received two sets of letters from
15 you, one with a letter from you dated January 8, and that had
16 four letters with it written on behalf of the defendant, and
17 then I received a letter from you yesterday that had with it
18 three letters written on behalf of the defendant, and I've
19 reviewed those and will take those into account.

20 *MR. BIGGS:* Thank you, Your Honor, and I believe --
21 that's all I have, but I believe Mr. Cathey would like to
22 address the Court as well.

23 *THE COURT:* Mr. Cathey, you have the right to make
24 any statement or presentation you would like to make on the
25 subject of mitigation, that is, the things you think the Court

1 should take into account in determining what sentence to
2 impose, or on the subject of sentencing more generally, and at
3 this time I'll invite you to do that.

4 *THE DEFENDANT:* Thank you, Your Honor.

5 First, I just want to apologize to my mother, of
6 course. You know, nobody ever anticipates you're going to be
7 overcome by a drug addiction. You know, I certainly never
8 thought that I would. I had an alcoholic father growing up,
9 and it was hard. Of course, I don't drink today because of
10 it, but, you know, then there I was with -- bound by something
11 else, you know.

12 I voluntarily got out of prison and went to the
13 Calvary Commission. It was best place I ever went to. I wish
14 I had never left, but I had, and I got tangled up in this,
15 Your Honor, and, you know, it's a -- I admit 100 percent
16 responsibility. It's my fault, nobody else's, nobody made me,
17 I did what I did, and I'm thoroughly remorseful and sorry for
18 it. I don't want to be an enemy of the United States.

19 I still have some years left to live, and, you know,
20 prior to my doing drugs, I had helped several people. You
21 know, I kept kids out of prison, gave them jobs, taught them
22 work ethics and so forth, donated stuff to churches -- not
23 that I did it expecting nothing in return, just, you know -- I
24 mean, I'm just -- I got a good heart.

25 God gave me a good heart, and he gave me good mother

1 as my best friend and my personal influence. I'm really sorry
2 that I even put my family in this situation, sir, much less
3 myself, you know, and I got six -- my six kids, the youngest
4 being five, and I just -- I just want to be there for them.

5 You know, I was able to -- after the Calvary
6 Commission, I was able to start buying them Christmas presents
7 and give them money for their birthdays and try to guide them
8 to a Godly life because that's the only way I realized I'm
9 going to make it, and I just, you know, don't want to miss
10 their total complete childhood, you know.

11 I know it's probably -- it's already set on its
12 course, and I'm not denying any responsibility, as I said
13 before, sir, but I'm just asking for leniency from the Court.
14 You know, I'm a -- I'm a Christian man. I just got tangled up
15 again, and I realize, boy, it's been the hardest time of my
16 life, and my mistakes that I made.

17 Calvary Commission is standing behind me. They said
18 I'm welcome back. When I get done with whatever kind of
19 prison term I get, that I'm welcome back, and I'm going to
20 just continue with them, take part in their ministries, and
21 just do what I can to keep kids and people, that I have a
22 chance to, to keep from going down the same path I have.

23 That's all I got to say, Your Honor.

24 *THE COURT:* Okay. Well, this is another case where
25 we have an extensive criminal record, and as Mr. Biggs pointed

1 out, the defendant has gotten off with light sentences for the
2 most part, and apparently he has not been willing to learn his
3 lesson. He hasn't learned his lesson. He's continued.

4 We have -- starting at age 34, the first one I
5 have -- well, yeah, at age 34, the first one I have, we have
6 three felony drug offenses, it looks like, at age 34.

7 Then at age 36, three more felony drug offenses.

8 Then at age 38, two more felony offenses, one
9 unlawful possession of a firearm and the other a possession of
10 a controlled substance.

11 In some of those instances, he was given deferred
12 adjudication, I believe, or probation. Some of the earlier
13 ones was, and then he violated his probation and then was
14 adjudicated guilty.

15 Then on top of what I've already talked about, he
16 several times was charged with felony offenses where he
17 admitted he was guilty of the conduct he was charged with by
18 way of a plea in bar of prosecution.

19 That happened once when he was age 34 -- actually,
20 twice when he was age 34. One of those was a failure to
21 identify fugitive. He gave false information to a police
22 officer. He gave a false name to a police officer. And then
23 another -- well, both of them were failure to identify, and he
24 admitted his guilt to both of those as pleas in bars of
25 prosecution. Well, that happened two more times at age 34.

1 I'm talking about the offenses that are described in
2 paragraphs 76, 77, 78, 79, 81, and 82 of the presentence
3 report. Those were all instances where he was charged with
4 felony offenses, and admitted that he did engage in the
5 conduct he was charged with, but wasn't prosecuted because of
6 those admissions, and in each instance the admission was in
7 connection with a bar in prosecution.

8 MR. BIGGS: Your Honor --

9 THE COURT: Were it not for the defendant's
10 cooperation, and there's some question as to the -- what the
11 government's really gained from his cooperation. Apparently
12 they had or have acquired information from other sources that
13 would accomplish what has already been accomplished or will be
14 accomplished on the subjects of his cooperation. Were it not
15 for that, I would be sentencing at the top of the advisory
16 guideline range in this case, the 480 months of imprisonment.

17 I'm going to reduce what I otherwise would have done
18 to take into account his cooperation with the government, and
19 the sentence I'm going to impose also will take into account
20 all of the factors the Court should consider in sentencing
21 under 18 United States Code Section 3553(a).

22 So what I'm going to do to give him the benefit of
23 his cooperation with the government, I'm going to give him a
24 very significant reduction below 480 months, which is what I
25 would have done without his cooperation.

1 I'm going to sentence him at the bottom of the
2 guideline range at the 360 months, which is really a 120-month
3 or 10-year reduction from what his sentence would have been
4 had he not provided the cooperation to the government.

5 That would be combined with a -- by the way, that
6 sentence would be consecutive to any parole revocation
7 sentences or other sentences he would be subject to in the
8 Tarrant County district court cases; and that would be
9 combined with a term of supervised release of 4 years to start
10 when he's served his term of imprisonment; and payment of a
11 special assessment of \$100 that would be payable at the time
12 of -- payable immediately as a special assessment.

13 The sentence I've described, in my view, is a
14 sentence that adequately and appropriately addresses all the
15 factors the Court should consider in sentencing under 18
16 United States Code Section 3553(a), as well as the defendant's
17 cooperation with the government, so that's the sentence I'm
18 going to impose.

19 The Court orders and adjudges that the defendant be
20 committed to the custody of the Bureau of Prisons to serve a
21 term of imprisonment of 360 months to run -- well, it runs
22 concurrently with one of the state court offenses, that's Case
23 Number 1413828D. So whatever sentence he receives in that
24 case, this sentence would run concurrently with that.

25 But this sentence runs consecutively to any

1 sentences he receives in Case Numbers 1162888D, 1183196D, and
2 1174257D in a district court in Tarrant County, Texas.

3 I'm also ordering the defendant serve a term of
4 supervised release of 4 years that would start when he's
5 served his term of imprisonment.

6 Now, while on supervised release, the defendant
7 shall comply with the standard conditions that will be set
8 forth in the judgment of sentence and conviction, and the
9 following additional conditions:

10 He shall not commit another federal, state, or local
11 crime.

12 He shall not possess illegal controlled substances.

13 He shall cooperate in the collection of DNA as
14 directed by the probation officer and as authorized by the
15 Justice for All Act of 2004.

16 He shall refrain from any unlawful use of a
17 controlled substance, and shall submit to one drug test within
18 15 days of release from imprisonment and at least two periodic
19 drug tests thereafter, as directed by the probation officer.

20 He shall participate in a program approved by the
21 probation officer for treatment of narcotic or drug or alcohol
22 dependency and that will include testing for the detection of
23 substance use, and he shall abstain from the use of alcohol
24 and all other intoxicants during and after completion of that
25 treatment and shall contribute to the cost of those services

1 at the rate of at least \$25 a month.

2 I'm also ordering that the defendant pay a special
3 assessment of \$100. That's payable immediately to the United
4 States of America through the office of the clerk of court
5 here in Fort Worth.

6 Mr. Cathey, you have the right to appeal from the
7 sentence I've imposed, if you're dissatisfied with it. That
8 appeal would be to the United States Court of Appeals for the
9 Fifth Circuit.

10 You have the right to appeal in forma pauperis, that
11 means without any cost to you, if you qualify for it. You
12 have the right to have the clerk of court file a notice of
13 appeal for you, and the clerk would do that forthwith, if you
14 were to specifically request it.

15 You and your attorney have been given a form that
16 outlines certain rights and obligations in reference to an
17 appeal. If you haven't already done so, I want the two of you
18 to review that and be sure you understand it, and once both of
19 you are satisfied you understand it, I want both of you to
20 sign it and return it to the court coordinator.

21 Has that been done, Mr. Biggs?

22 *MR. BIGGS:* Yes, Your Honor.

23 *THE COURT:* Okay. The defendant's remanded to
24 custody, and the attorneys are excused.

25 *MR. BIGGS:* Your Honor, I'll object to the sentence

1 as substantively unreasonable for the reasons articulated in
2 my motion and the reasons I argued today.

3 I'd also object as procedurally unreasonable for, in
4 my opinion, failing to follow the three-step process set out
5 in Malone.

6 And I would also object, I believe some of the bases
7 for identified -- some of the offenses identified are -- that
8 were not adjudicated were actually misdemeanors and not
9 felonies. Thank you.

10 *THE COURT:* Okay. We have some rearraignments
11 scheduled for 10:30, and it's a little after 10:30 now. We've
12 been at this long enough we're going to have to take a
13 15-minute recess, so those who are here for the rearraignments
14 can take that into account.

15 *COURT SECURITY OFFICER:* All rise.

16 (Recess)

17 (End of Proceedings)

REPORTER'S CERTIFICATE

I, Debra G. Saenz, CSR, RMR, CRR, certify that the foregoing is a true and correct transcript from the record of proceedings in the foregoing entitled matter.

I further certify that the transcript fees format comply with those prescribed by the Court and the Judicial Conference of the United States.

Signed this 14th day of March, 2016.

/s/ Debra G. Saenz

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